

SENATE BILL No. 151

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-25.

Synopsis: Condominium unit liens. Provides that all sums assessed by an association of condominium co-owners but unpaid for the share of the common expenses chargeable to an owner of a condominium unit constitute a lien on the unit. Specifies that the lien attaches to the condominium unit upon the recording of a notice of lien by the association of co-owners in the office of the recorder of the county in which the condominium unit is located on the date of the recording of the notice. Allows the association of co-owners to enforce the lien by filing a complaint in the circuit or superior court of the county where the condominium unit is located. Allows the lien to be voided under certain circumstances.

Effective: July 1, 2014.

Zakas

January 8, 2014, read first time and referred to Committee on Civil Law.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 151

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 32-25-5-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as
3 provided in subsection (b), in a voluntary conveyance, the grantee of
4 a condominium unit is jointly and severally liable with the grantor for
5 all unpaid assessments against the grantor for the grantor's share of the
6 common expenses incurred before the grant or conveyance, without
7 prejudice to the grantee's right to recover from the grantor the amounts
8 of common expenses paid by the grantee.
9 (b) The grantee:
10 (1) is entitled to a statement from the manager or board of
11 directors setting forth the amount of the unpaid assessments
12 against the grantor; and
13 (2) is not liable for, nor shall the condominium unit conveyed be
14 subject to a lien for, any unpaid assessments against the grantor:
15 (A) in excess of the amount set forth in the statement; or
16 (B) unless a lien for unpaid assessments is recorded as



provided in IC 32-25-6-4 before the recording of the deed by which the grantee takes title.

SECTION 2. IC 32-25-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) All sums assessed by the association of co-owners but unpaid for the share of the common expenses chargeable to ~~any~~ **an owner of a condominium unit** constitute a lien on the unit effective at the time of assessment. ~~The lien has priority over all other liens except:~~

(1) ~~tax liens on the condominium unit in favor of any:~~

(A) ~~assessing unit; or~~

(B) ~~special district; and~~

(2) ~~all sums unpaid on a first mortgage of record; provided in section 4 of this chapter.~~

(b) ~~The priority of a lien under subsection (a) may be filed and foreclosed by suit by the manager or board of directors, acting on behalf of the association of co-owners, under laws of Indiana governing mechanics' and materialmen's liens. In any foreclosure under this subsection:~~

(1) ~~the condominium unit owner shall pay a reasonable rental for the unit, if payment of the rental is provided in the bylaws; and~~

(2) ~~the plaintiff in the foreclosure is entitled to the appointment of a receiver to collect the rental.~~

(c) ~~The manager or board of directors, acting on behalf of the association of co-owners, may, unless prohibited by the declaration:~~

(1) ~~bid on the condominium unit at foreclosure sale; and~~

(2) ~~acquire, hold, lease, mortgage, and convey the condominium unit.~~

(d) ~~Suit to recover a money judgment for unpaid common expenses is maintainable without foreclosing or having the lien securing the expenses. is established on the date the notice of the lien is recorded as provided in section 4 of this chapter.~~

(c) A notice of lien may not be recorded as provided in section 4 of this chapter unless the notice of lien:

(1) contains:

(A) the name and address of the association of co-owners;

(B) the address and legal description of the condominium unit that is subject to the lien;

(C) the name of the owner of the condominium unit that is subject to the lien; and

(D) the amount of the lien; and

(2) is:

(A) signed by an officer of the association of co-owners;



1 **and**

2 **(B) acknowledged as in the case of deeds.**

3 (e) (d) If the mortgagee of a first mortgage of record or other
4 purchaser of a condominium unit obtains title to the unit as a result of
5 foreclosure of the first mortgage, the acquirer of title, or the acquirer's
6 successors and assigns, is not liable for the share of the common
7 expenses or assessments by the association of co-owners chargeable to
8 the unit that became due before the acquisition of title to the unit by the
9 acquirer. The unpaid share of common expenses or assessments is
10 considered to be common expenses collectible from all of the
11 co-owners, including the acquirer or the acquirer's successors and
12 assigns.

13 SECTION 3. IC 32-25-6-4 IS ADDED TO THE INDIANA CODE
14 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2014]: **Sec. 4. (a) A lien under this chapter attaches to a**
16 **condominium unit upon the recording of a notice of lien by the**
17 **association of co-owners in the office of the recorder of the county**
18 **in which the condominium unit is located.**

19 **(b) A lien under this chapter attaches on the date of the**
20 **recording of the notice of the lien and does not relate back to:**

21 **(1) a date specified in the bylaws, the covenants, or another**
22 **written instrument of the association of co-owners; or**

23 **(2) the date the common expenses were assessed.**

24 SECTION 4. IC 32-25-6-5 IS ADDED TO THE INDIANA CODE
25 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2014]: **Sec. 5. (a) An association of co-owners may enforce a lien**
27 **by filing a complaint in the circuit or superior court of the county**
28 **where the condominium unit that is the subject of the lien is**
29 **located. The complaint:**

30 **(1) may not be filed earlier than ninety (90) days, unless:**

31 **(A) another person files a foreclosure action on the**
32 **condominium unit that is the subject of the lien; or**

33 **(B) a person files written notice to file an action to**
34 **foreclose the lien under section 6(a)(1) of this chapter; and**

35 **(2) must be filed not later than five (5) years;**

36 **after the date the statement and notice of intention to hold a lien**
37 **was recorded as provided in section 4 of this chapter.**

38 **(b) If a lien is not enforced within the time set forth in**
39 **subsection (a), the lien is void.**

40 **(c) If a lien is foreclosed under this chapter, the court rendering**
41 **judgment shall order a sale to be made of the condominium unit**
42 **subject to the lien. The officers making the sale shall sell the**



1 condominium unit without any relief from valuation or
2 appraisal laws.

3 SECTION 5. IC 32-25-6-6 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2014]: Sec. 6. (a) A lien under this chapter is void if both of the
6 following occur:

7 (1) The owner of the condominium unit subject to the lien or
8 any person or corporation having an interest in the
9 condominium unit, including a mortgagee or a lienholder,
10 provides written notice to the owner or holder of the lien to
11 file an action to foreclose the lien.

12 (2) The owner or holder of the lien fails to file an action to
13 foreclose the lien in the county where the condominium unit
14 is located within one (1) year after the date the owner or
15 holder of the lien received the notice described in subdivision

16 (1).

17 However, this section does not prevent the claim from being
18 collected as other claims are collected by law.

19 (b) A person who gives notice under subsection (a)(1) by
20 registered or certified mail to the owner or holder of the lien at the
21 address given in the recorded statement may file an affidavit of
22 service of the notice to file an action to foreclose the lien with the
23 recorder of the county in which the condominium unit is located.
24 The affidavit must state the following:

25 (1) The facts of the notice.

26 (2) That more than one (1) year has passed since the notice
27 was received by the owner or holder of the lien.

28 (3) That an action for foreclosure of the lien is not pending.

29 (4) That an unsatisfied judgment has not been rendered on the
30 lien.

31 (c) The recorder shall record the affidavit of service. When the
32 recorder records the affidavit under this subsection, the
33 condominium unit described in the lien is released from the lien.

34 (d) An affidavit recorded under subsection (c) must cross
35 reference the lien.

